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SEA

SERVICE DATE – JANUARY 31, 2006

**SURFACE TRANSPORTATION BOARD**  
WASHINGTON, DC 20423

**ENVIRONMENTAL ASSESSMENT**

**STB DOCKET NO. AB-6 (Sub-No. 432X)**

**BNSF Railway Company – Abandonment Exemption – in Walsh County, ND**

**BACKGROUND**

In this proceeding, BSNF Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 in connection with the abandonment of an approximately 7.12-mile line of railroad in Walsh County, North Dakota. The rail line extends between BNSF milepost 144.21 at Grafton and BNSF milepost 137.09 near Voss. A map depicting the rail line in relationship to the area served is appended to the report. If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and dispose of the right-of-way.

**DESCRIPTION OF THE LINE**

According to BNSF, this line has not generated any originating or terminating traffic in over two years.

The line is located in a rural area, and the adjoining land is generally flat and used for agricultural production. The right-of-way is 100 feet wide, and abandonment would allow for the elimination of ten public crossings and seven private crossings. Upon receiving authority to abandon the line, BNSF states that the proposed abandonment may include the removal of rail, crossties, bridges, and structures. However, the roadbed would be left intact.

BNSF states that the property may be suitable for other public purposes. However, based on comments submitted by the Walsh County Auditor, there is no indication of a change in local land use plans or any alternative public uses for the rail corridor.

**ENVIRONMENTAL REVIEW**

BNSF submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. BNSF

served the environmental and historical reports on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 CFR 1105.7(b)].<sup>1</sup> The Board's Section of Environmental Analysis (SEA) has reviewed and investigated the record in this proceeding.

As stated above, no traffic has moved on the line segment in over two years. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network. Furthermore, the North Dakota Department of Health's Environmental Health Section states that the proposed activities are consistent with the State Implementation Plan for the Control of Air Pollution for the State of North Dakota.

The U.S. Fish and Wildlife Service (USFWS) reviewed the proposed project and states that it will have no significant impact on fish or wildlife resources. Moreover, USFWS states that no endangered or threatened species are known to occupy the proposed project area.

The North Dakota Parks and Recreation Department (NDPRD) submitted comments recommending that any areas impacted by salvage activities be revegetated with species native to the project area. Accordingly, we will recommend a condition based on NDPRD's recommendations.

The North Dakota State Water Commission (NDSWC) indicated that the proposed project is located in a 100-year floodplain.<sup>2</sup> NDSWC stated that BNSF should apply for a non-building floodplain permit prior to the proposed abandonment. NDSWC also stated that all waste material associated with the proposed project should be disposed of properly and not placed in identified floodway areas. Accordingly, we will recommend a condition based on NDSWC's recommendations.

The U.S. Army Corps of Engineers' Omaha District (Corps) submitted comments stating that the proposed project could involve jurisdictional waters of the United States and a Department of the Army permit may be required. Therefore, we will recommend a condition requiring BNSF to consult with the Corps regarding potential impacts to waters of the United States, including wetlands.

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<sup>1</sup> The Environmental and Historic Reports are available on the Board's web site at [www.stb.dot.gov](http://www.stb.dot.gov) and may be viewed under the "E-LIBRARY" link by clicking on "Filings."

<sup>2</sup> NDSWC filed two comments. On January 25, 2006, Mr. Larry Knudtson at the NDSWC clarified that SEA should consider its November 17, 2005 letter and not its December 2005 comment in the preparation of this Environmental Assessment.

The Natural Resource Conservation Service (NRCS) stated that the proposed abandonment would not impact prime farmlands or wetlands on adjacent agricultural lands. However, NRCS recommended that, to the extent possible, all natural drainage patterns be maintained and that land use that may be affected during abandonment be returned to the original land use cover. Additionally, NRCS recommended that waste material should not be placed in wetlands or natural watercourses and erosion control measures should be in effect during all periods of bridge and track removal activities. Accordingly, we will recommend a condition requiring BNSF to consult with NRCS regarding these recommendations.

The North Dakota Department of Health's (NDDH) Environmental Health Section indicated that the environmental impacts from the proposed project will be minor and can be controlled by proper mitigation measures. NDDH recommended that BNSF follow Best Management Practices during salvage activities to prevent dirt, debris, and waste material from entering a storm drainage system or water body. NDDH also requested that BNSF report any releases of petroleum products, hazardous materials, or chemicals that may impact human health or the environment. Last, NDDH recommended that all solid waste materials be managed and transported in accordance with the state's solid and hazardous waste rules and encouraged BNSF to reduce, reuse, or recycle waste materials. We will recommend a condition based on NDDH's recommendations.

According to BNSF, the proposed abandonment will not affect wildlife sanctuaries or refuges, national or state parks or forests. First, the Bureau of Land Management has no wildlife sanctuaries or refuges, national or state parks or forests in the proposed project area. Second, the North Dakota Parks and Recreation Department indicated that the project does not affect state park lands that it manages or Land and Water Conservation Fund recreation projects that it coordinates. Last, the National Park Service reviewed the proposed project and stated that there are no conflicts with the Land and Water Conservation Fund and the Urban Park and Recreation Recovery programs.

BNSF states that its records do not indicate any hazardous waste sites or sites where there have been hazardous material spills on the right-of-way.

## **HISTORIC REVIEW**

BNSF submitted an historic report as required by the Board's environmental rules [49 CFR 1105.8(a)] and served the report on the State Historical Society of North Dakota (the State Historic Preservation Office or SHPO), pursuant to 49 CFR 1105.8(c). According to BNSF, there are 12 open deck timber trestle bridges located on the line. These bridges were built between 1950 and 1975 and range from 15 feet to 71 feet in length. The SHPO has submitted comments stating that no historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register) would be affected by the proposed abandonment. We have reviewed the report and the information provided by the SHPO and concur with the SHPO's comments.

SEA conducted a search of the Native American Consultation Database at [www.cast.uark.edu/other/nps/nacd/](http://www.cast.uark.edu/other/nps/nacd/) to identify Federally recognized tribes that may have ancestral connections to the project area. The database indicated that the Red Lake Band of Chippewa Indians, Minnesota and the Turtle Mountain Band of Chippewa Indians of North Dakota may have an interest in the proposed abandonment. Accordingly, SEA will ensure that these tribes receive a copy of this Environmental Assessment for their review and that these tribes are added to the service list for this proceeding.

Pursuant to the Advisory Council on Historic Preservation's regulations for implementing the Section 106 process of the National Historic Preservation Act at 36 CFR 800.4(d)(1) and 36 CFR 800.8, we have determined that the proposed abandonment will not affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 CFR 800.11(d), consists of the railroad's historic report, all relevant correspondence, and this Environmental Assessment, which have been provided to the SHPO and made available to the public. However, we will recommend a condition that in the event that BNSF does discover unanticipated archaeological sites, human remains, funerary items, or associated artifacts during salvage operations, that it shall immediately cease work and notify SEA, the SHPO and any Federally recognized tribe that may have an interest, and consult with them to determine whether any mitigation measures are necessary.

### **CONDITIONS**

SEA recommends that the following environmental conditions be placed on any decision granting abandonment authority:

1. Based on the comments of the North Dakota Parks and Recreation Department, BNSF Railway Company shall revegetate areas impacted by salvage activities with species native to the area.
2. Prior to commencement of any salvage activities, BNSF Railway Company shall consult with the North Dakota State Water Commission (NDSWC) regarding potential impacts to the 100-year floodplain and shall comply with the reasonable requirements of NDSWC to mitigate any potential impacts.
3. Prior to commencement of any salvage activities, BNSF Railway Company shall consult with the U.S. Army Corps of Engineers' Omaha District (Corps) regarding potential impacts to waters of the United States, including wetlands, and shall comply with the reasonable requirements of the Corps.
4. Prior to commencement of any salvage activities, BNSF Railway Company shall consult with the Natural Resource Conservation Service regarding the following recommendations: 1) to the extent possible, maintain all natural drainage patterns and return land use to the original land use cover; 2) avoid placing waste material in wetlands or natural watercourses; and 3) employ erosion control measures during all periods of bridge and track removal.

5. Based on the comments of the North Dakota Department of Health (NDDH), BNSF Railway Company shall: 1) follow Best Management Practices during salvage activities to prevent dirt, construction debris, and waste material from entering a storm drainage system or water body; 2) report any releases of petroleum products, hazardous materials, or chemicals that may impact human health or the environment to NDDH; and 3) prior to commencement of any salvage activities, consult with NDDH regarding solid waste materials and comply with its reasonable requirements.
6. In the event that any archaeological sites, human remains, funerary items, or associated artifacts are discovered during salvage operations, BNSF Railway Company (BNSF) shall immediately cease all work and notify the Board's Section of Environmental Analysis, the State Historical Society of North Dakota, and interested Federally recognized tribes. BNSF shall then consult with these parties to determine whether any mitigation measures are necessary.

## **CONCLUSIONS**

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, and if the recommended conditions are imposed, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

## **PUBLIC USE**

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

## **TRAILS USE**

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

## **PUBLIC ASSISTANCE**

The Board's Office of Public Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at (202) 565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

## **COMMENTS**

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Christa Dean who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's web site, [www.stb.dot.gov](http://www.stb.dot.gov), by clicking on the "E-FILING" link. **Please refer to Docket No. AB-6 (Sub-No. 432X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Christa Dean the environmental contact for this case, by phone at (202) 565-1606, fax at (202) 565-9000, or e-mail at [deanc@stb.dot.gov](mailto:deanc@stb.dot.gov).

Date made available to the public: January 31, 2006.

**Comment due date: February 15, 2006.**

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams  
Secretary

Attachment